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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,298	06/17/2000	Uday R. Parekh	TQIP-0002	1742
27964	7590	04/07/2005	EXAMINER	
HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083			ESCALANTE, OVIDIO	
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			2645	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/596,298	<b>Applicant(s)</b> PAREKH ET AL.	
	<b>Examiner</b> Ovidio Escalante	<b>Art Unit</b> 2645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 1/27/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. This action is in response to applicant's Appeal Brief filed on October 20, 2004. **Claims 1-27** are now pending in the present application.

#### ***Response to Arguments***

2. In view of the appeal brief filed on October 20, 2004, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21,23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al. US Patent 5,495,522.

Art Unit: 2645

**Regarding claim 21**, Allen teaches a system for managing deletion of telephony recordings stored in a storage unit, (col. 26, lines 38-67), comprising:

a file structure including directories, each of said directories designated to contain only telephony recordings (CDRs comprise information that was recorded onto a file record concerning each telephone call (e.g. line number, conference number, start time, name and phone number). The directories of Allen each contain only information that was received during a call) created during particular periods of time, (col. 26, lines 45-47; files are created and assigned names that correspond to the date. A group of files with the same date forms a directory in which all files with the same date are stored or deleted together when a predetermined period of time passes); and

a controller, associated with said storage unit, that recovers storage capacity in said storage unit by deleting an entire one of said directories based on said particular periods of time, (col. 26, lines 38-67).

**Regarding claim 23**, Allen teaches wherein said controller deletes an oldest one of said directories, (col. 26, lines 38-67).

**Regarding claim 24**, Allen teaches wherein said particular period of time is one day, (col. 26, lines 45-47).

**Regarding claim 25**, Allen teaches wherein said storage unit is a disk storage unit, (col. 26, lines 38-67).

**Regarding claim 26**, Allen teaches wherein selected ones of said files are removed from one of said directories before said controller deletes said directory, (col. 26, lines 38-67).

Art Unit: 2645

**Regarding claim 27**, Allen teaches wherein said controller deletes said one of said directories by deleting said files contained in said directory and renaming said one, (col. 26, lines 38-67).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2645

8. Claims 1-5,7-12,14-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glowny US Patent 6,785,370 in view of Baker US Patent 5,923,746.

***Regarding claim 1***, Glowny teaches for use with an automated call placement system having a switching service unit (100), a call monitoring unit capable of monitoring a selected one of lines coupled to said switching service unit, (col. 1, line 58-col. 2, line 11; col. 5, lines 21-27; fig. 1; fig. 2), comprising:

a recorder, (audio recorder 145), coupled to said call monitoring unit, that monitors a call carried on said selected one of said lines and creates a recording of said call on a storage medium associated therewith, (col. 1, line 58-col. 2, line 11), said storage medium being of finite capacity (col. 29, lines 45-53; col. 62, lines 28 - 39); and

a recorder controller, coupled to said recorder, that provides an audible reproduction of said call to a user in real time (col. 31, line 67-col. 32, line 4; col. 2, lines 39-40) and allows said user to preserve said recording, (col. 32, lines 5-32; fig. 16).

While Glowny teaches of said storage medium having a set amount of space, Glowny does not specifically teach of the storage medium being subject to eventual overwriting and allowing said user to delay said overwriting based on said audible reproduction.

In the same field of endeavor, Baker teaches of a recording system which records conversations onto a storage medium that is subject to eventual overwriting, (abstract). Baker further teaches that based on said audible reproduction a user can delay said overwriting, (col. 3, line 51-col. 4, line 13). The user uses the period selector to change the recording period so that the recording for the conversation can be extended.

Art Unit: 2645

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the storing method of Glowny by allowing a user to preserve said recording based on said audible reproduction to delay said overwriting as taught by Baker so that important recordings will not be overwritten.

***Regarding claims 2 and 9***, Glowny in view of Baker, as applied to claim 1, teaches wherein said recorder controller allows said user to preserve said recording to prevent said overwriting, (col. 3, line 51-col. 4, line 13).

As stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the storing method of Glowny by allowing a user to preserve said recording based on said audible reproduction to delay said overwriting as taught by Baker so that important recordings will not be overwritten.

***Regarding claims 3, 10 and 16***, Glowny, as applied to claim 1, teaches wherein said recorder monitors said call by tapping a trunk line coupled to said switching service unit, (fig. 2; col. 1, lines 58-col. 2, line 11).

***Regarding claims 4, 11 and 17***, Glowny, as applied to claim 1, teaches wherein said call is an outgoing call from a station coupled to said switching service unit, (col. 1, line 58-col. 2, line 11).

***Regarding claims 5, 12 and 18***, Glowny, as applied to claim 1, teaches wherein said storage medium contains a plurality of recordings arranged in directories according to a date on which said recorder created said plurality of recordings, (fig. 16; col. 7, lines 10-17; col. 32, lines 5-32; col. 34, lines 7-21).

Art Unit: 2645

***Regarding claims 7, 14 and 20,*** Glowny in view of Baker, as applied to claim 1, teaches wherein said recording is subject to overwriting on an aged basis, (col. 3, line 51-col. 4, line 13).

As stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the storing method of Glowny by allowing a user to preserve said recording based on said audible reproduction to delay said overwriting as taught by Baker so that important recordings will not be overwritten.

***Regarding claim 8,*** Glowny teaches for use with an automated call placement system having a switching service unit (100), a method of making a recording of a conversation occurring on a selected one of lines coupled to said switching service unit, (col. 1, line 58-col. 2, line 11; col. 5, lines 21-27), comprising:

monitoring a call carried on said selected one of said lines, (col. 1, line 58-col. 2, line 11);

creating a recording of said call on a storage medium, said storage medium being of finite capacity, (col. 1, lines 58 - col. 2, line 11; col. 29, lines 45-53; col. 62, lines 28-39) and

providing an audible reproduction of said call to a user in real time with a recorder controller, (col. 2, lines 39-40; col. 31, line 67-col. 32, line 4); and

allowing said use, with said recorder controller, to preserve said recording, (col. 31, line 67-col. 32, line 4).

While Glowny teaches of said storage medium having a set amount of space, Glowny does not specifically teach of the storage medium being subject to eventual overwriting and allowing said user to delay said overwriting based on said audible reproduction.

In the same field of endeavor, Baker teaches of a recording system which records conversations onto a storage medium that is subject to eventual overwriting. Baker further



Art Unit: 2645

teaches that based on said audible reproduction a user can delay said overwriting, (col. 3, line 51-col. 4, line 13). The user uses the period selector to change the recording period so that the recording for the conversation can be extended.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the storing method of Glowny by allowing a user to preserve said recording based on said audible reproduction to delay said overwriting as taught by Baker so that important recordings will not be overwritten.

***Regarding claim 15***, Glowny teaches an automated call placement system (ACP), (fig. 1), comprising:

a switching service unit (100; col. 5, lines 21-27);

a plurality of stations coupled to said switching service unit, (fig. 1 and fig. 2);

a call monitoring unit capable of monitoring a selected one of lines coupled to said switching service unit, (col. 5, lines 21-27);

a storage medium associated with said call monitoring unit, (col. 1, line 56-col. 2, line 11; fig. 1);

a recorder, coupled to said call monitoring unit, that monitors a call carried on said selected one of said lines and creates a recording of said call on a storage medium, said storage medium being of finite capacity, (col. 1, line 58-col. 2, line 11; col. 29, lines 45-53; col. 62, lines 28-39); and

a recorder controller, coupled to said recorder, that provides an audible reproduction of said call to a user in real time and allows said user to preserve said recording, (col. 31, line 67-col. 32, line 4).

While Glowny teaches of said storage medium having a set amount of space, Glowny does not specifically teach of the storage medium being subject to eventual overwriting and allowing said user to delay said overwriting based on said audible reproduction.

In the same field of endeavor, Baker teaches of a recording system which records conversations onto a storage medium that is subject to eventual overwriting. Baker further teaches that based on said audible reproduction a user can delay said overwriting, (col. 3, line 51- col. 4, line 13). The user uses the period selector to change the recording period so that the recording for the conversation can be extended.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the storing method of Glowny by allowing a user to preserve said recording based on said audible reproduction to delay said overwriting as taught by Baker so that important recordings will not be overwritten.

9. Claims 6,13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glowny in view of Baker and further in view of Pezzullo et al. US Patent 6,064,732.

***Regarding claims 6,13 and 19***, Glowny in view of Baker, as applied above, do not specifically teach of the recorder controller is an ADSI capable device.

Pezzullo teaches that it was well known in the art to have a ADSI device which has a controller that used for recording telephone calls, (col. 2, lines 5-53). Pezzullo teaches that one of ordinary skill in the art would use ADSI so that service can be improved.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Glowny and Baker by using a ADSI device as the

Art Unit: 2645

recorder as taught by Pezzullo so that the overall use of the device can be improved; col. 2, lines 5-53, Pezzullo.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Glowny.

*Regarding claim 22*, Allen, as applied to claim 21, teaches wherein said telephony recordings are telephone data that is recorded between two parties. Allen does not specifically teach that the telephone data is conversations.

In the same field of endeavor, Glowny teaches of creating a directory of telephony recordings which include conversations between two parties created during particular periods of time, (fig. 16; col. 7, lines 10-19; col. 32, lines 5-32). Glowny further teaches that it was well known to store telephony data which include information other than the conversation into the stored directory, (fig. 16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Allen to store conversations with the telephony data as taught by Glowny so that the entire conversational record can be stored together and can be easily accessed.

#### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed October 20, 2004, with respect to claim 21, have been fully considered but they are not persuasive.

Art Unit: 2645

Applicants contend that the prior art Allen does not teach managing deletion of telephony recordings. The Examiner has maintained that the Call Detail Records of Allen read on the telephony recordings since that information is recorded during a call. Applicants further argue that throughout the specification, "telephony recordings" refers to a conversation not telephone data. The Examiner respectfully disagrees.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., telephony recordings referring to conversation) are not recited in the rejected independent claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Applicants point to numerous citations in their specification to support that telephone recordings are conversations. However, the Examiner believes that the claims are much broader and should not be interpreted this way since Applicant further defined telephony recordings to be conversations in a dependent claim. Since dependent claims are narrower than the independent claims then it appears that Applicant is being broader in the independent claim and hence telephony recording should not be read as a conversation in the independent claim.

### ***Conclusion***

12. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Art Unit: 2645

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30 to 4:00. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**OVIDIO ESCALANTE**  
**PATENT EXAMINER**

*Ovidio Escalante*

Ovidio Escalante  
Examiner  
Group 2645  
April 4, 2005

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